

SECRETARY'S RECORD, PUBLIC SERVICE COMMISSION

BEFORE THE NEBRASKA PUBLIC SERVICE COMMISSION

In the Matter of the Nebraska)	Application No. C-5493/PI-245
Public Service Commission, on)	
its own motion, to require)	
certificated local exchange)	
carriers, interexchange)	ORDER PUBLISHING LIST OF
carriers, and eligible)	CARRIERS USING OR DEPLOYING
telecommunications carriers in)	PROHIBITED EQUIPMENT
Nebraska to attest as to whether)	
they are using or deploying)	
communications equipment)	
prohibited by the Federal)	
Communications Commission.)	Entered: June 27, 2023

BY THE COMMISSION:

On March, 28, 2023 The Nebraska Public Service Commission ("Commission") opened this proceeding on its own motion for the purpose of ensuring that recipients of broadband grants issued by the Commission are not using or deploying communications equipment or services developed by organizations listed on the Federal Communications Commission's ("FCC") covered list (the "Covered List").¹

The Commission administers various programs within which state and federal funds for the deployment of broadband infrastructure are awarded. These programs include the Nebraska Broadband Bridge Program, federal Capital Projects Funds awards, and the Precision Agriculture Grant Program. Grant awardees in these programs must attest that they will not use equipment on the Covered List before funds are distributed. As such, the Commission finds that it should maintain information regarding the use of prohibited equipment by entities certificated in Nebraska.

In its March 28 Order, the Commission set a hearing in this matter for May 10, 2023. Notice of this hearing appeared in The Daily Record of Omaha, Nebraska, on April 14, 2023. The public hearing was held in the Commission Hearing Room, Lincoln, Nebraska on May 10, 2023 at 1:30 p.m. Ms. Joselyn Luedtke with Zulkoski Weber appeared on behalf of NE Colorado Cellular dba Viaero

¹ The current Covered List is maintained by the FCC at <https://www.fcc.gov/supplychain/coveredlist>. Detailed information regarding the creation and maintenance of this list can be found at 47 C.F.R. § 1.50000 et seq.

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("Viaero"). Mr. Jonathan Smith appeared on behalf of the Telecommunications and NUSF Department of the Commission ("Department"). During the hearing, Exhibits 1 through 6 were entered into the record.

E V I D E N C E

Cullen Robbins testified on behalf of the Department. Mr. Robbins stated that although the Governor's executive order did not apply to NUSF, it has been the Commission policy to disallow the use of prohibited equipment on NUSF funded cellular towers since 2019. Mr. Robbins then turned to the above captioned docket, stating that notifications were sent to all local exchange carriers, interexchange carriers, and eligible telecommunications carriers, requiring them to provide an affidavit to the Commission whether they are using any prohibited equipment.² Mr. Robbins stated that 168 affidavits have been filed with the Commission at the time of the hearing, leaving approximately 74 entities whose affidavits are still outstanding. Mr. Robbins went on to clarify, that out of the 168 affidavits that were filed, 3 entities have indicated they currently use or rely on prohibited equipment in their network. These entities would be ineligible to participate in Nebraska broadband grant programs that the Commission administers or may administer in the future until they have removed the prohibited equipment from their network. Mr. Robbins then stated that there are two entities who have applied for funding but have not filed an affidavit with the Commission.³

Following Mr. Robbins' testimony, Viaero called Mr. Bill Gorman, Radio Frequency Engineer with RF Engineering, to testify on behalf of Viaero.⁴ Mr. Gorman began his testimony by summarizing how Viaero was progressing in its plan to remove prohibited equipment from its network. He anticipated Viaero would complete the removal by January 1, 2025.⁵ Upon questioning, Mr. Gorman elaborated on the technical process of replacing the prohibited equipment on Viaero's network as well as the various customer considerations involved. He then discussed the extent of Viaero's involvement in the FCC's Rip and Replace program. Mr. Gorman testified as to the amount of funding Viaero requested from the

² Hearing Transcript at 8-9.

³ *Id.* at 10-11.

⁴ *Id.* at 14-35.

⁵ *Id.* at 14-17.

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FCC and Viaero's decision on how it is prioritizing its replacement efforts in Nebraska.⁶

Viaero then called Mr. Ernest Sanders, Program Director for Ericsson, to testify on behalf of Viaero. Mr. Sanders testimony focused on the FCC's Rip and Replace Program as it relates to Viaero's application.⁷ He also discussed the technical procedure of how Ericsson is working with Viaero to replace all prohibited equipment on its network.⁸

Viaero then called Mr. Jon Becker, President of Industrial Tower West with Viaero. Mr. Becker commented on Viaero's tower building program and how Viaero is prioritizing the replacement of towers that are using prohibited equipment.⁹ Following Mr. Becker's testimony, no other exhibits were offered, and no other witnesses testified. The hearing was then closed.

O P I N I O N A N D F I N D I N G S

The Commission has considered the testimony and exhibits provided in this proceeding. Since the completion of the hearing, numerous carriers have submitted the required affidavit stating they are not using prohibited equipment. As such, an updated list of entities using or deploying communications equipment and services developed by organizations on the FCC's Covered List is attached to this order as 'Attachment A.' The Commission finds that 'Attachment A' shall be the official list of all communications providers ineligible from being awarded State funds designated for broadband deployment.

Moreover, the Commission finds that all local exchange carriers, interexchange carriers, and eligible telecommunications carriers certificated in Nebraska shall be required to provide to the Commission an attestation as to whether they are using or deploying prohibited equipment. The Commission finds that this attestation should be included with the forms required to be completed as part of the annual report process and submitted before April 30 of each calendar year. Grant programs affected by this requirement include, but are not limited to, the Nebraska Broadband

⁶ *Id.* at 18-32.

⁷ *Id.* at 37-56.

⁸ *Id.* at 38-49.

⁹ *Id.* at 57-61.

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Bridge Program, federal Capital Projects Funds awards, and the Precision Agriculture Grant Program. Specific requirements for each program will be detailed within the Commission docket relevant to that program.

Finally, the Commission finds that those carriers who fail to file this attestation will be presumed to use or rely on prohibited equipment and will be ineligible from receiving State funding designated for broadband deployment. All current ineligible carriers are listed in 'Attachment A' to this order.

O R D E R

IT IS THEREFORE ORDERED by the Nebraska Public Service Commission that all local exchange carriers, interexchange carriers, and eligible telecommunications carriers certificated in Nebraska shall be required to file the above-described information with the Commission on or before April 30, 2024, and annually thereafter, as prescribed herein.

IT IS FURTHER ORDERED that all carriers listed on 'Attachment A' shall be ineligible from being awarded State broadband funding.

ENTERED AND MADE EFFECTIVE at Lincoln, Nebraska this 27th day of June, 2023.

NEBRASKA PUBLIC SERVICE COMMISSION

COMMISSIONERS CONCURRING:






Chair

ATTEST:

Executive Director

Attachment A

List of Nebraska Telecommunications carriers using or deploying
communications equipment and services developed by organizations
on the Federal Communications Commission's Covered List

by

Nebraska Public Service Commission

June 27, 2023

Entity Name	Filed - Yes	Failed to File
1. Action Communications, Inc.		X
2. Advantage Telecommunications Corp.		X
3. Alliance Global Networks, LLC		X
4. Applied Communications Technology, Inc.		X
5. Aureon Communications, LLC		X
6. Bluestem Network, LLC		X
7. Broadwing Communications, LLC		X
8. Comtech 21, LLC		X
9. Consumer Telcom, Inc.		X
10. Easton Telecom Services, LLC		X
11. EnTelegent Solutions, Inc.		X
12. First Choice Technology, Inc.		X
13. First Communications, LLC		X
14. GC Pivotal, LLC		X
15. Global Crossings Telecommunications, Inc.		X
16. Grasshopper Group, LLC		X
17. IDT America, Corp		X
18. inContact, Inc.		X
19. Iowa Network Services, Inc.		X
20. IP Pathways, LLC		X
21. Level 3 Communications, LLC		X
22. Level 3 Telecom Data Services, LLC		X
23. Mitel Cloud Services, Inc.		X

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24.	Mobilitie, LLC		X
25.	NE Colorado Cellular, Inc. dba Viaero	X	
26.	Nebraska Technology & Telecommunications, Inc		X
27.	NextGen Communications, Inc.		X
28.	NGA911, LLC		X
29.	Nyecom Teleservices, Inc.		X
30.	PNG Telecommunications, Inc.		X
31.	QuantumShift Communications, Inc.		X
32.	Reduced Rate Long Distance, LLC		X
33.	Reliant Communications, Inc.		X
34.	Rural Telephone Service Company, Inc.		X
35.	Sage Telecom Communications, LLC		X
36.	SBC Long Distance, LLC		X
37.	Securus Technologies, LLC		X
38.	Southwest Communications, Inc.		X
39.	Spectrotel of the West, LLC		X
40.	SQF, LLC		X
41.	Teleport Communications America, LLC		X
42.	Toly Digital Networks, Inc.		X
43.	Treasure Lake, LP		X
44.	U.S. Telecom Long Distance, Inc.		X
45.	USA Digital Communications, Inc.		X
46.	WilTel Communications, LLC		X

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47.	Working Assets Funding Service, Inc.		X
48.	X2Comm, Inc.		X
49.	XYN Communications of Nebraska, LLC		X
50.	Zayo Group, LLC		X
51.	Zito Midwest, LLC	X	
52.			